IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.207 OF 2006

Govinda News Link and others ..Applicants

V/s.

R.S.Luth Education Trust and others ..Respondents

Mr.Uday P. Warunjikar, advocate for applicants

Coram : D.G.Karnik, J

Date : 9th November, 2006

P.C.

1. Heard learned counsel for the revision applicants.

2. This revision application is directed against the order dated 12th October, 2006 dismissing revision applicants' application for rejection of the plaint under O.7, R.11 of the Civil Procedure Code.

3. The respondents filed a suit against applicants for an injunction restraining them from publishing certain material which is alleged to be defamatory. The applicants appeared in the suit

and made an application for rejection of the plaint under O.7, R.11 of the C.P.C on the following grounds :

A) Suit for injunction without claiming any damages was is not maintainable.

B) Suit was undervalued.

C) The applicants had freedom of speech and by granting of injunction applicants' freedom of speech was likely to be hindered.

4. If a defendant to the suit publishes a defamatory material against any person then it is open to that person to claim damages for the defamation already caused and claim injunction restraining the defendant from publishing further defamatory material or repeating publication of defamatory material. The plaintiff may however, choose to claim only the relief of injunction preventing further publication of defamatory material without claiming damages. Suit cannot be said to be bad in law because claim for damages has not been made. If the plaintiff chooses not to claim damages he need not value the suit for the claim for damages he could have made. He can

value the suit U/s.6(iv)(i) of the Bombay Court Fees Act, for the relief of injunction. Thus the first two grounds has no merit.

5. The ground that granting of an injunction would infringe upon freedom of expression of the plaintiff is clearly untenable. Nobody has unfettered right to speak in a manner as to cause character assassination of any other citizen. Right of freedom of speech can be limited and circumscribed by a reasonable restriction prohibiting publication of defamatory material regarding in any other citizen. In any event, extent of the right of freedom of speech of a party to the suit would be subject matter of decision at the trial and it cannot be said that the suit for injunction restraining a person from publishing defamatory material is per se not maintainable.

6. Learned counsel for the revision applicants invited my attention to the decision of Supreme Court reported in 2004(3) Supreme Court Cases 137. In my view this case has no application to the facts of the present case.

7. There is no merit in the petition which is hereby dismissed.

(D.G.Karnik, J.)